Comments on the Proposed NPDES Permit for Stormwater Discharges Associated with Industrial Activity

My name is Mark A. "Mak" Kaufman and I serve as a water quality inspector for the Washington State Dept. of Ecology and the majority of my duties are to regulate industries that have discharges associated with stormwater in the Whatcom County, Washington area.

I have comments on the following sections of the proposed permit:

1) Section S-3 E (the language of the mixing zone requirements)
2) Section S-7 C (Design Storm exemption from permit violations)

S-3 E Mixing Zones.

1) Standard Mixing Zones Are Not Appropriate Without Thorough Ecology Review

Washington State's Water Quality Standards for Surface waters of the State of Washington (173.201A.100 (1) authorizes mixing zones for discharge permits, general permits and orders as appropriate.

The authorization of a mixing zone for large industrial facilities that have extensively engineered waste-water treatment systems designed to effectively institute primary, secondary and sometime tertiary treatment of their effluent waste-streams is appropriate, since all of the treatment processes and associated equipment are verified to be in place and the concentrations of contaminates associated of process wastewater are known at very discrete levels. Stormwater discharges do not meet the above design and treatment criteria.

There are two distinct differences between stormwater and process wastewater. First, stormwater discharges **NEVER** receive the level of treatment associated with process waste streams, and secondly, the level of engineering required for process waste streams assumes:
1) very exacting and known concentrations of the given effluent loads based on the type of process being conducted and the volume of the discharge,
2) as well as the receiving water flow rates.

The concentrations of contaminates associated with stormwater discharges vary considerably based on the varying amounts of rainfall and the variability of the facility's activities in areas that collect rainfall. When these concentrations vary so much, there is no practical way of analyzing these concentrations and Ecology has no way of knowing whether or not allowing the mixing zone is appropriate.

It is these two distinct differences between these two discharge types and how they have been treated that warrants a thorough review of each stormwater facility's Best Management Practices (BMPs) on a case by case basis, before a mixing zone should be authorized.

The mixing zone language requires that all BMPs be in place and be properly maintained and operated. Ecology has no way of verifying that **ALL** BMPs are in place and in good working order without inspecting each facility. Authorizing a standard mixing zone before an inspection of the facility's treatment capabilities is **NOT** being protective of Waters of the State of Washington.

The mixing zone should only be authorized as a permit modification after Ecology inspects the facility and verifies that **ALL** BMPs are in place and working correctly, rather than being authorized automatically. The automatic authorization of a mixing zone without review is **NOT** protective of surface waters of the State of Washington and should only be authorized as a permit modification after thorough review of an ongoing operation.

I suggest the following change:
A mixing zone may only be requested as a modification of existing permit coverage. Approval for the modification of coverage would then be based on an evaluation of the implementation, maintenance and proper operations of existing Best Management Practices (BMPs).

2) Size of Mixing Zones is Not Appropriate.

The size of the mixing zone should be minimized to 50 feet in order to be as protective of waters of the State of Washington as possible.

Section S-7 C: Compliance with Standards: The Design Storm

Enforcement decisions are made on a case by case basis. Due to the extremely complicated factors often associated with enforcement actions based on discharges to surface waters during storm events, this appears to guarantee the facilities that certain rain events give them the right to pollute. Many winters in western Washington have three or four rain events every year that exceed the 6 month rain event. This is bad agency policy, and sends a message to light industry in Washington State that it is OK to pollute in certain situations. It would be better to remain silent on this rather than have a poor enforcement decision already made for Ecology.